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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/545,272	04/07/2000	Senthil Sivakumar	CISCO-1787	1978

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EXAMINER

MILLS, DONALD L

ART UNIT	PAPER NUMBER
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2662

DATE MAILED: 12/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Best Available Copy

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/545,272

Applicant(s)

SIVAKUMAR, SENTHIL

Examiner

Donald L. Mills

Art Unit

2662

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 04 December 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 14-30.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.


**JOHN PEZZLO
PRIMARY EXAMINER**

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Continuation of 11. NOTE:

Rejection Under 35 USC § 112

On page 7 of the remarks regarding claims 14, 22, and 30, the Applicant argues *if no mapping between the destination MAC address and port exists, then until a reply is received from a port associated with the destination MAC address, iteratively...* (For example, see claim 14, lines 5-6,) is a form of flooding control. The Examiner respectfully disagrees. It is unclear from the context of the claim how the loop would ever end if the destination address were unreachable, since the flooding and quiet period would continue indefinitely thereby overburdening the network with excessive flooding. Further, the specification teaches (Referring to Figure 5,) flooding (Step 230,) or observing a quiet period (Step 320,) then returning to bridge processing (Step 250). The term "iteratively" suggests performing the operation continuously for a single unknown mapping until a response is received from the node with the corresponding MAC address, which is not the case since the operation consists of performing flooding or silence then returning to bridge processing (not to flood control processing.) At best, the specification teaches repeating the process a second time (See page 8, lines 18-20,) but not an infinite number of times until a mapping is achieved.

Rejection Under 35 USC § 103

On page 8 of the remarks, regarding claims 14-30, in response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Also, the Applicant argues neither Miller nor Li disclose, teach, or otherwise

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make obvious *performing broadcast flooding for a first predetermined time period and ceasing broadcast flooding of packets for a second predetermined time period*. The Examiner respectfully disagrees. Li teaches a time-out clock when messages are forwarded (flooding for a first predetermined time period) (See column 14, lines 54,) and a delay clock used to prevent flooding for a predetermined period of time (ceasing flooding for a second predetermined time period) subsequent to the last flooding by the same voice interface control unit 24 (See column 10, lines 42-46.) Based upon a reasonable, broad and literal interpretation of the claims, Li teaches *performing broadcast flooding for a first predetermined time period and ceasing broadcast flooding of packets for a second predetermined time period*. The Examiner respectfully reminds the Applicant that the claims are read in light of the specification; however, limitations from the specification are not read into the claims. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, it would have been obvious to one of ordinary skill in the art at the time of the invention to implement the time-out and delay clocks of Li in the system of Miller, because Miller is silent to its flooding methodology. One of ordinary skill in the art at the time of the invention would have been motivated to do so prevent network overloading due to repeated and excessive flooding as taught by Miller (See column 1, lines 45-59 and column 2, lines 4-6.) Furthermore, although Miller is

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silent to the flooding process utilized in step 56 of Figure 3, it would be logical and necessary to implement a time-out system or flooding interval. Otherwise, when a data unit is received and its destination is unknown, the system of Miller would result in an infinite loop of flooding (Referring to Figure 3, repeating steps 50, 52, 54, and 56.) Furthermore, intervals of flooding are well known in the art as taught by Li and Huitema (See page 165, paragraph 4,) and necessary to prevent traffic congestion and link paralysis.



JOHN PEZZLO
PRIMARY EXAMINER

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